

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:

GERARDO J. HERNANDEZ,

Debtors.

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No. 19-30583

Chapter 7

NOTICE OF MOTION

To: David M. Siegel, David M. Siegel & Assoc., 790 Chaddick Dr., Wheeling, IL 60090 – Via ECF
Phillip D. Levey, Esq., 2722 N. Racine Ave., Chicago, IL 60614 – Via ECF
Gerardo J. Hernandez, 6050 S. Wolcott Ave., Chicago, IL 60636 – Via U.S. Mail

On **Thursday, November 7, 2019, at 9:30 a.m.**, or as soon thereafter as counsel may be heard, I shall appear before the **Judge Deborah L. Thorne** or any judge sitting in his/her stead in **Room 613** at the Dirksen Federal Building, 219 S. Dearborn, Chicago, IL, and then and there present the attached **Motion to Modify Automatic Bankruptcy Stay**.

/s/ Bradley A. Skafish

DEUTSCHMAN & SKAFISH, P.C.
Attorneys for Plaintiff/Petitioner
77 W. Washington Street - Suite 1525
Chicago, IL 60602
(312) 419-1600

PROOF OF SERVICE

The undersigned, an attorney, on oath states that he/she served this notice via electronic filing or U.S. Mail (as noted above) on or before the hour of 5:00 p.m. on **November 4, 2019**.

/s/ Bradley A. Skafish

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MOTION TO MODIFY AUTOMATIC STAY

NOW COMES PROGRESSIVE INSURANCE COMPANY, by and through its attorneys, DEUTSCHMAN & SKAFISH, P.C., and in support of its Motion to Modify the Automatic Stay arising pursuant to Section 362 of the Bankruptcy Code, respectfully states as follows:

1. On October 28, 2019, GERARDO J. HERNANDEZ filed his/her voluntary petition for relief under Chapter 7 of the Bankruptcy Code.
2. Pursuant to Section 362 of the Bankruptcy Code, all persons are now stayed from commencing or continuing certain actions against GERARDO J. HERNANDEZ or his/her property.
3. On or about September 8, 2015, the debtor was involved in an automobile accident with petitioner's insured. PROGRESSIVE INSURANCE COMPANY has brought a subrogation action in the Circuit Court of Cook County under number 17 M1 13099 to recover the monies it expended as a result of the car accident involving its insured.
4. The debtor, GERARDO J. HERNANDEZ, was covered under an automobile policy of insurance with Unique Insurance Company as of the date of the accident. The policy was in full force and effect on the date of the accident.

5. Petitioner, PROGRESSIVE INSURANCE COMPANY, only seeks recovery under the debtor's policy of insurance and not against his/her personal assets. The total amount prayed for the Petitioner's complaint in the Circuit Court of Cook County is \$8,947.26. The petitioner is informed and believes that the debtor's policy of insurance with Unique covers more than the amount of the claim at issue.

WHEREFORE, the petitioner respectfully requests:

a) That the automatic stay arising pursuant to Section 362 of the Bankruptcy Code be modified, and that the Petitioner, in the name of PROGRESSIVE INSURANCE COMPANY, be authorized to pursue all lawful remedies to continue the subrogation matter in the Circuit Court of Cook County in case number 17 M1 13099; and

b) That the Petitioner have other and further relief as this Court deems just and proper.

Respectfully submitted,
DEUTSCHMAN & SKAFISH, P.C.

/s/ Bradley A. Skafish
Attorney for Petitioner

Bradley A. Skafish
DEUTSCHMAN & SKAFISH, P.C.
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(312) 419-1600
ARDC # 6278462

Form G-4

P-6879

**REQUIRED STATEMENT
TO ACCOMPANY MOTIONS FOR RELIEF FROM STAY**

All Cases: Debtor(s) GERARDO J. HERNANDEZ Case No. 19-30583 Chapter 7

All Cases: Moving Creditor PROGRESSIVE INS. CO. Date Case Filed 10/28/19

Nature of Relief Sought: ☒ Lift Stay ☐ Annul Stay ☐ Other (describe) _____

Chapter 13: Date of Confirmation Hearing _____ or Date Plan Confirmed _____

Chapter 7: ☐ No-Asset Report Filed on _____
☒ No-Asset Report not Filed, Date of Creditors Meeting 12/13/19

1. Collateral

- a. ☐ Home
b. ☐ Car Year, Make, and Model _____
c. ☒ Other (describe) insurance policy

2. Balance Owed as of Petition Date \$ 8,947.26
Total of all other Liens against Collateral \$ none known

3. In chapter 13 cases, if a post-petition default is asserted in the motion, attach a payment history listing the amounts and dates of all payments received from the debtor(s) post-petition.

4. Estimated Value of Collateral (must be supplied in *all* cases) \$ 20,000

5. Default

- a. ☐ Pre-Petition Default
Number of months _____ Amount \$ _____
b. ☐ Post-Petition Default
i. ☐ On direct payments to the moving creditor
Number of months _____ Amount \$ _____
ii. ☐ On payments to the Standing Chapter 13 Trustee
Number of months _____ Amount \$ _____

6. Other Allegations

- a. ☐ Lack of Adequate Protection § 362(d)(1)
i. ☐ No insurance
ii. ☐ Taxes unpaid Amount \$ _____
iii. ☐ Rapidly depreciating asset
iv. ☐ Other (describe) _____
b. ☐ No Equity and not Necessary for an Effective Reorganization § 362(d)(2)
c. ☐ Other "Cause" § 362(d)(1)
i. ☐ Bad Faith (describe) _____
ii. ☐ Multiple Filings
iii. ☐ Other (describe) _____

d. Debtor's Statement of Intention regarding the Collateral

- i. ☐ Reaffirm ii. ☐ Redeem iii. ☐ Surrender iv. ☐ No Statement of Intention Filed

Date: 11/4/19

/s/ Bradley A. Skafish

Counsel for Movant

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IN RE:

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No. 19-30583

Chapter 7

ORDER FOR RELIEF FROM AUTOMATIC STAY

THIS CAUSE COMING on Petitioner, PROGRESSIVE INSURANCE COMPANY's Petition to Modify Automatic Stay, all parties having received notice and the Court being fully advised in the premises;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows: that the automatic stay arising pursuant to section 362 of the Bankruptcy Code (11 U.S.C. Sec. 362) is hereby modified to permit Petitioner, PROGRESSIVE INSURANCE COMPANY, to pursue all lawful remedies in the suit commenced against the debtor, GERARDO J. HERNANDEZ in the Circuit Court of Cook County, Illinois as case number 17 M1 13099. The petitioner will not attempt to pursue the personal assets of the debtor but will pursue remedies against the debtor's automobile liability insurance carrier only. The modification of the stay as provided herein shall be effective immediately upon entry of this order.

Bradley A. Skafish
DEUTSCHMAN & SKAFISH, P.C.
77 West Washington Street
Suite 1525
Chicago, Illinois 60602
(312) 419-1600
ARDC # 6278462

_____,
ENTERED:

Judge

Judge's No.